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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/627,760

07/28/2003

Guy Mantelet

P06434US01/RFH

4428

881

7590

10/31/2006

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EXAMINER

TSE, YOUNG TOI

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/627,760	<b>Applicant(s)</b> MANTELET ET AL.	
	<b>Examiner</b> YOUNG T. TSE	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/362,109.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. See paragraph [0018] of the specification.

### ***Specification***

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.

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- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification fails to include a statement to state that this application is a DIV of the U.S. Application No. 09/362,109, filed on July 28, 1999, now U.S. Patent No. 6,683,914 under the heading (b)

#### CROSS-REFERENCE TO RELATED APPLICATIONS.

#### ***Claim Objections***

3. Claims 1, 4-10, and 13-18 are objected to because of the following informalities:

In claim 1, lines 10, 12 (second occurrence) and 18, "of these", "a packet", and "said encapsulation message" should be "of the", "the packet", and "said at least one encapsulation message", respectively. Also see claim 10 (lines 10 and 18).

In claim 4, line 5, "function" should be "logic function". Also see claim 5 (line 5), claim 13 (line 5), claim 14 (line 5), and claim 15 (line 5).

In claim 5, line 3, "the second" should be "a second". Also see claim 6 (line 3), and claims 14-15 (line 3).

In claim 7, line 5, "discriminating means of" should be "means for discriminating" and lines 7 and 8, "logic value" should be "binary value". Also see claim 16 (lines 6, 8 and 9).

In claim 8, line 5, "s'(k)" should be "a'(k)". Also see claim 17 (line 5).

In claim 9, line 2, "a fist" should be "a first input".

In claim 10, line 9, "a second" should be "second".

In claim 18, lines 1 and 2, "said logic cell" and "a first" should be "said first logic cell" and "a first input", respectively.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2, 8, 9, and 11, "k(i)" is vague and indefinite since it uses for different things. Also see claim 10.

In claim 1 (lines 8, 11 and 14-15), claim 2 (lines 13, 18 and 20), claim 3 (lines 2-3), claim 4 (lines 2-3 and 5-6), claim 5 (lines 3 and 5), claim 6 (line 3), claim 7 (lines 6, 7 and 18), claim 10 (lines 8, 11 and 14), claim 11 (lines 18 and

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20), claim 12 (lines 2-3), claim 13 (lines 2-3 and 5-6), claim 14 (lines 3 and 5), claim 15, line 3), and claim 16 (line 7, 9 and 20), the phrases "said digital data", "the considered bit", "said aforementioned stable value", the received packet", "the successive validated pause symbols", "the decoding lattice", "the signaling of the packet start and end", "said complemented envelope logic signal", "the activity of the envelope", "said current packet", "the encoded symbol packet", and "the continuity of the decoding lattice" all lack antecedent basis.

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 2, 4, 7-9, 11, and 15-16 are rejected on the ground of nonstatutory double patenting over claims 1-3 of U. S. Patent No. 6,683,914 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: claims 2 and 11 of the instant application correspond to a first section of claim 1 of U. S. Patent No. 6,683,914; claims 4 and 15 of the instant application correspond to a second section of claim 1 of U. S. Patent No. 6,683,914; claim 7 of the instant application corresponds to a first section of claim 2 of U. S. Patent No. 6,683,914; claim 8 of the instant application corresponds to a second section of claim 2 of U. S. Patent No. 6,683,914; claim 9 of the instant application corresponds to a third section of claim 2 of U. S. Patent No. 6,683,914; and claim 16 of the instant application corresponds to a first section of claim 3 of U. S. Patent No. 6,683,914. Although the conflicting claims 2, 7, 11, and 16 of the instant application are not identical to claims 1-3 of U. S. Patent No. 6,683,914, they are not patentably distinct from each other because the broader claims of the instant application would have been obvious in view of the narrow issued claims of U. S. Patent No. 6,683,914 (see *In re Emert*, 124 F.3d 1458, 44USPQ2d 1149).

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during

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prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Allowable Subject Matter***

8. Claims 1-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and timely filed a terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Budrikis et al., Todoroki, Urbaniak et al., Rao and Gallet et al. are related to communication systems for performing convolutional encoding and Viterbi decoding.

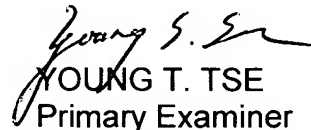
Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUNG T. TSE whose telephone number is (571) 272-3051. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



YOUNG T. TSE  
Primary Examiner  
Art Unit 2611